

31	52	42
Sec.	Twp.	Range

**ZONING HEARING APPLICATION
MIAMI-DADE COUNTY
DEPARTMENT OF PLANNING & ZONING**

LIST ALL FOLIO #S: 30-2231-037-0310 and -0320

Date Received

1. **NAME OF APPLICANT** (Provide complete name of applicant, exactly as recorded on deed, if applicable. If applicant is a lessee, an executed "Owner's Sworn-to-Consent" and copy of a valid lease for 1 year or more is required. If the applicant is a corporation, trust, partnership, or like entity, a 'Disclosure of Interest' is required).

Liberty Station, Inc.

2. **APPLICANT'S MAILING ADDRESS, TELEPHONE NUMBER:**

Mailing Address: 12305 S. Dixie Hwy

City: Miami State: FL Zip: 33156 Phone#: (305) 255-4145

3. **OWNER'S NAME, MAILING ADDRESS, TELEPHONE NUMBER:**

Owner's Name (Provide name of ALL owners): Liberty Station, Inc.

Mailing Address: 12305 S. Dixie Hwy

City: Miami State: Florida Zip: 33156 Phone#: (305) 255-4145

4. **CONTACT PERSON'S INFORMATION:**

Name: Brian Adler, Esq. Company: Bilzin Sumberg Baena Price & Axelrod LLP

Mailing Address: 200 South Biscayne Boulevard, Suite 2500

City: Miami State: FL Zip: 33131

Phone#: (305) 350-2351 Fax#: (305) 351-2206 E-mail: badler@bilzin.com

5. **LEGAL DESCRIPTION OF ALL PROPERTY COVERED BY THE APPLICATION**

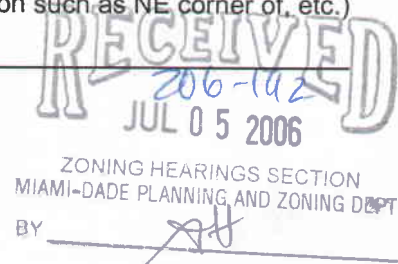
(Provide complete legal description, i.e., lot, block, subdivision name, plat book & page number, or metes and bounds. Include section, township, range. If the application contains multiple rezoning requests, then a legal description for each sub-area must be provided. Attach separate sheets, as needed).

SEE EXHIBIT "A"

6. **ADDRESS OR LOCATION OF PROPERTY** (For location, use description such as NE corner of, etc.)

SE Side of West Dixie Highway between NE 118th and 119th Terraces

7. **SIZE OF PROPERTY** (in acres): 0.38±



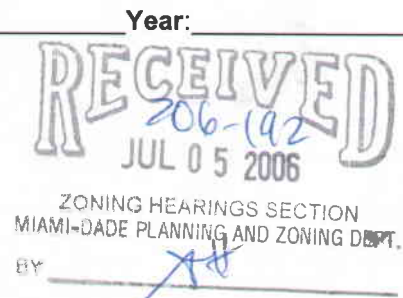
8. **DATE** property ☒ acquired ☐ leased: 06/06
(month & year)
9. **Lease term:** _____ years
10. **IF CONTIGUOUS PROPERTY IS OWNED BY THE SUBJECT PROPERTY OWNER(S)**, provide complete legal description of said contiguous property.

_____ N/A _____
11. **Is there an option** to purchase ☐ or lease ☐ the subject property or property contiguous thereto? ☒ no ☐ yes (If yes, identify potential purchaser or lessee and complete "Disclosure of Interest" form)

12. **PRESENT ZONING CLASSIFICATION:** BU-1
13. **APPLICATION REQUESTS** (Check all that apply and describe nature of the request in space provided) (DBC's require special exception to permit site plan approval unless rezoning 3 acres or less to residential categories)
- ☒ District Boundary Changes (DBC) [Zone class requested]: BU-1 to BU-1A
- ☐ Unusual Use: _____
- ☐ Use Variance: _____
- ☒ Non-Use Variance: To waive the requirements of Section 33-251.3 requiring a wall on the business lot where it is separated from a residential district by a dedicated alley.
- ☐ Alternative Site Development: _____
- ☐ Special Exception: _____
- ☐ Modification of previous resolution/plan: _____
- ☐ Modification of Declaration or Covenant: _____
14. **Has a public hearing been held on this property within the last year & a half?** ☒ no ☐ yes. If yes, provide applicant's name, and date, purpose and results of hearing, and resolution number:

15. **Is this hearing as a result of a violation notice?** ☒ no ☐ yes. If yes, give name to whom the violation notice was served: _____ and describe the violation:

16. **Describe structures on the property:** Vacant Land
17. **Is there any existing use on the property?** ☒ no ☐ yes. If yes, what use and when established?
Use: _____ Year: _____

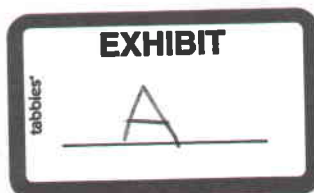


LEGAL DESCRIPTION:

LOTS 9, 10, 11, 12, 13 AND 14, BLOCK 6 OF
"BELLEVUE BISCAYNE" ACCORDING TO THE PLAT
THEREOF AS RECORDED IN PLAT BOOK 17 AT PAGE 29
OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA.

RECEIVED
206-192
JUL 05 2006

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY XLT



APPLICANT'S AFFIDAVIT

OWNER OR TENANT AFFIDAVIT

The Undersigned, first being duly sworn depose that all answers to the questions in this application, and all supplementary documents made a part of the application are honest and true to the best of (my)(our) knowledge and belief. (I)(We) understand this application must be complete and accurate before the application can be submitted and the hearing advertised.

We, _____ being first duly sworn, depose and say that (I am)(we are) the
☒ owner ☐ tenant of the property described and which is the subject matter of the proposed hearing.

Signature

Signature

Sworn to and subscribed to before me
this ____ day of _____, 2006.

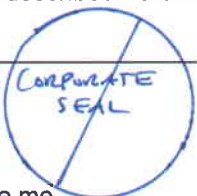
Notary Public: _____
Commission Expires: _____

CORPORATION AFFIDAVIT

I, Claudia Fontecilla, being first duly sworn, depose and say that I am the Vice President of Liberty Station, Inc., and as such, have been authorized by the corporation to file this application for public hearing; and that said corporation is the owner of a portion of the property described herein and which is the subject matter of the proposed hearing.

Attest: _____

(Corp. Seal)



Claudia Fontecilla
Claudia Fontecilla, Vice President

Sworn to and subscribed to before me
this 21 day of JUNE, 2006

Notary Public: _____
Commission Expires: _____



ATTORNEY AFFIDAVIT

I, Brian S. Adler, Esq., being first duly sworn, depose and say that I am a State of Florida Attorney at Law, and I am the Attorney for the Owner of the property described and which is the subject matter of the proposed hearing.

Sworn to and subscribed to before me
this 21 day of JULY, 2006

Notary Public: _____
Commission Expires: _____

Brian S. Adler
Brian S. Adler

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206-192
JUL 05 2006

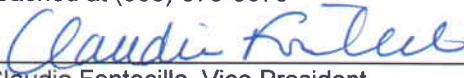
ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.
BY AB



RESPONSIBILITIES OF THE APPLICANT

I AM AWARE THAT:

1. The Public Works Department, the Department of Environmental Resources Management (DERM), and other County agencies review and critique zoning applications which may affect the scheduling and outcome of applications. These reviews may require additional public hearings before DERM's Environmental Quality Control Board (EQCB), or other County boards, and/or the proffering of agreements to be recorded. I am also aware that I must comply promptly with any DERM or Public Works conditions and advise this office in writing if my application will be withdrawn.
2. Filing fees may not be the total cost of a hearing. Some requests require notices to be mailed to property owners up to a mile from the subject property. In addition to mailing costs, fees related to application changes, plan revisions, deferrals, re-advertising, etc., may be incurred. Applications withdrawn within 60 days of the filing are eligible for a refund of 50% of the hearing fee but after that time hearings withdrawn or returned will be ineligible for a refund. I understand that fees must be paid promptly.
3. The South Florida Building Code requirements may affect my ability to obtain a building permit even if my zoning application is approved; and that a building permit will probably be required. I am responsible for obtaining permits and inspections for all structures and additions proposed, or built without permits. And that a Certificate of Use and Occupancy must be obtained for the use of the property after it has been approved at Zoning Hearing, and that failure to obtain the required permits and/or Certificates of Completion or of Use and Occupancy will result in enforcement action against any occupant and owner. Submittal of the Zoning Hearing application may not forestall enforcement action against the property.
4. The 3rd District Court of Appeal has ruled that zoning applications inconsistent with the Comprehensive Development Master Plan (CDMP) cannot be approved by a zoning board based upon considerations of fundamental fairness. Therefore, I acknowledge that if the hearing request is inconsistent with the CDMP and I decide to go forward then my hearing request can only be denied or deferred, but not approved.
5. In Miami-Dade County v. Omnipoint Holdings, Inc., Case No. 3D01-2347 (Fla. 3rd DCA 2002), the 3rd District Court of Appeal has held invalid the standards for non-use variances, special exceptions, unusual uses, new uses requiring a public hearing and modification of covenants. This is not a final decision and the County Attorney's Office is seeking further review. In the interim, the County Attorney's Office is working with the Planning and Zoning Department's professional staff to develop new standards that will address the Court's concerns. While the new standards are being developed, applicants are advised that any non-use variance, special exception, unusual use, new use requiring a public hearing or request for modification of covenants granted under the existing standards are subject to being reversed in the courts. An applicant wishing to avoid the substantial legal risks associated with going forward under the existing standard may seek a deferral until the new standards are developed.
6. Any covenant to be proffered must be submitted to the Department's Legal Counsel, on County form, at least 1 month prior to the hearing date. The covenant will be reviewed and the applicant will be notified if changes or corrections are necessary. Once the covenant is acceptable, the applicant is responsible to submit the executed covenant with a current 'Opinion of Title' within 1 week of the hearing. And that Legal Counsel can advise as to additional requirements applicable to foreign corporations. Documents submitted to Legal Counsel must carry a cover letter indicating subject matter, application number and hearing date. Legal Counsel may be reached at (305) 375-3075


Claudia Fontecilla, Vice President
Liberty Station, Inc.

Sworn to and subscribed before me this 29 day of JUNE, 2006. Affiant is personally known to me or has
produced _____ as identification.


(Notary Public)
My commission expires _____




ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY _____

OWNERSHIP AFFIDAVIT
FOR
CORPORATION

STATE OF FLORIDA

Public Hearing No. _____

COUNTY OF MIAMI-DADE

Before me, the undersigned authority, personally appeared Claudia Fontecilla, hereinafter the Affiant, who being first duly sworn by me, on oath, deposes and says:

1. Affiant is the Vice President of Liberty Station, Inc., a Florida corporation, with the following address:

12305 S. Dixie Highway, Miami, Florida 33156
2. The Company owns the property which is the subject of the proposed hearing.
3. The subject property is legally described as: SEE EXHIBIT "A"
4. Affiant is legally authorized to file this application for public hearing.
5. Affiant understands this affidavit is subject to the penalties of law for perjury and the possibility of voiding of any zoning granted at public hearing.

Witnesses:

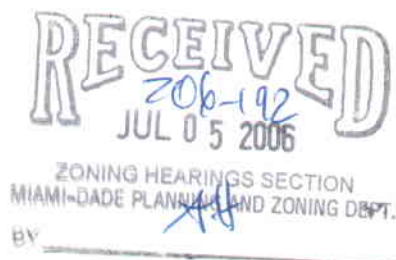
[Signature]
Signature

Rebecca J. Moyes
Print Name

[Signature]
Signature

Vette Caponi
Print Name

Claudia Fontecilla
Claudia Fontecilla, Vice President



Sworn to and subscribed before me on the 29 day of JUNE, 2006. Affiant is personally known to me or has produced _____ as identification.

[Signature]
Notary
(Stamp/Seal)
My Commission Expires _____

NOTARY PUBLIC
STATE OF FLORIDA
MIGUEL A. GUEVARA
MY COMMISSION # DD 549002
EXPIRES: May 8, 2010
FL Notary Discount Assoc. Co.

DISCLOSURE OF INTEREST*

If a **CORPORATION** owns or leases the subject property, list principal stockholders and percent of stock owned by each. [Note: Where principal officers or stockholders consist of other corporation(s), trust(s), partnership(s) or similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

CORPORATION NAME: Liberty Station, Inc.

NAME AND ADDRESS

Percentage of Stock

Carlos Fontecilla, President
12305 S. Dixie Hwy
Miami, Florida 33156

50%

Isabel Fontecilla
12305 S. Dixie Hwy
Miami, Florida 33156

50%

If a **TRUST** or **ESTATE** owns or leases the subject property, list the trust beneficiaries and percent of interest held by each. [Note: Where beneficiaries are other than natural persons, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

TRUST/ESTATE NAME: _____

NAME AND ADDRESS

Percentage of Stock

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206-192
JUL 05 2006

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY _____

If a **PARTNERSHIP** owns or leases the subject property, list the principals including general and limited partners. [Note: Where partner(s) consist of other partnership(s), corporation(s), trust(s) or similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interests].

PARTNERSHIP OR LIMITED PARTNERSHIP NAME: _____

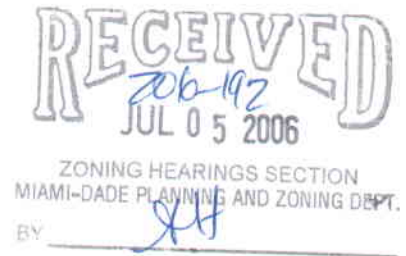
NAME AND ADDRESS

Percentage of Stock

If there is a **CONTRACT FOR PURCHASE** by a Corporation, Trust or Partnership, list purchasers below, including principal officers, stockholders, beneficiaries or partners. [Note: Where principal officers, stockholders, beneficiaries or partners consist of other corporations, trusts, partnerships or similar entities, further disclosure shall be made to identify natural persons having ultimate ownership interests].

NAME OF PURCHASER: _____

NAME, ADDRESS AND OFFICE (if applicable) _____ Percentage of Stock _____



Date of contract: _____

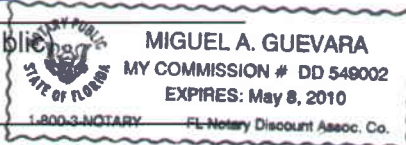
If any contingency clause or contract terms involve additional parties, list all individuals or officers, if a corporation, partnership or trust:

NOTICE: For changes of ownership or changes in purchase contracts after the date of the application, but prior to the date of final public hearing, a supplemental disclosure of interest is required.

The above is a full disclosure of all parties of interest in this application to the best of my knowledge and belief.

Signature: Claudia Fontecilla
Claudia Fontecilla, Vice President

Sworn to and subscribed before me this 29 day of JUNE, 2006. Affiant is personally known to me or has produced as identification.

[Signature]
(Notary Public) 
My commission expires _____

* Disclosure shall not be required of: 1) any entity, the equity interests in which are regularly traded on an established securities market in the United States or another country; or 2) pension funds or pension trusts of more than five thousand (5,000) ownership interests; or 3) any entity where ownership interests are held in a partnership, corporation or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership and where no one (1) person or entity holds more than a total of five per cent (5%) of the ownership interest in the partnership, corporation or trust. Entities whose ownership interests are held in a partnership, corporation, or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership, shall only be required to disclose those ownership interest which exceed five (5) percent of the ownership interest in the partnership, corporation or trust.

PH # _____

Notice to all Applicants

Advisories from the County Attorney's Office

Advisory 1

A recent decision of the Third District Court of Appeal has ruled that zoning applications that are inconsistent with the Comprehensive Development Master Plan cannot be approved by a zoning board based upon considerations of fundamental fairness.

Applicants are advised that if their hearing request is inconsistent with the Comprehensive Development Master Plan and they decide to go forward with the public hearing they cannot be approved under considerations of fundamental fairness, but can only be denied or deferred.

Advisory 2

A panel of judges of the Third District Court of Appeal. recently issued a statement that the standard for non-use variances in the Code of Miami-Dade County is legally insufficient. *Miami-Dade County v. Brennan*, 2001 WL 1472655 (Fla. 3rd DCA 2001). Although the Court was not in a position to issue a binding ruling, it is the opinion of the County Attorney's Office that any non-use variance issued under the present standard would be unlikely to be sustained if challenged in court. The County Attorney's Office is working with the Planning and Zoning Department's professional staff to develop a new standard that will address the Court's concerns. While the new standard is being developed, applicants are advised that any non-use variance granted under the existing standard is subject to being reversed in the courts. An applicant wishing to avoid the substantial legal risks associated with going forward under the existing standard may seek a deferral until the new standard is developed.

By signing below the applicant acknowledges that they have read and understood this Notice.



Claudia Fontecilla, Vice President
Liberty Station, Inc.

Date 6/29/06



CFN 20060684334
DR 8k 24658 Pgs 0271 - 2721 (2pgs)
RECORDED 06/22/2006 13:30:31
DEED DOC TAX 2,994.00
SURTAX 2,245.50
HARVEY RUVIN, CLERK OF COURT
MIAMI-DADE COUNTY, FLORIDA

Prepared by and return to:
Andrew Cuevas, Esq.

Pinnacle Property Title Company
536 Biltmore Way
Coral Gables, FL 33134
305-461-9500
File Number: 06-0048
Will Call No.:

[Space Above This Line For Recording Data]

Warranty Deed

This Warranty Deed made this 9th day of June, 2006 between NDN Enterprises, Ltd., a New York limited partnership whose post office address is 19801 NE 23 Ave, Aventura, FL 33180, grantor, and Liberty Station, Inc., a Florida corporation whose post office address is 12305 S Dixie Hwy, Miami, FL 33156, grantee:

(Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Miami-Dade County, Florida to-wit:

Parcel I:

Lots 9-13, Block 6, BELLEVUE BISCAVNE, according to the Plat thereof, as recorded in Plat Book 17, at Page 29, of the Public Records of Miami-Dade County, Florida.

AND

Parcel II:

Lot 14, Block 6, BELLEVUE BISCAVNE, according to the Plat thereof, as recorded in Plat Book 17, at Page 29, of the Public Records of Miami-Dade County, Florida.

Parcel Identification Number: 30-2231-037-0310

and

Parcel Identification Number: 30-2231-037-0320

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever, and that said land is free of all encumbrances, Subject to taxes for 2006 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Witness Name: DANIELA POMERILLA

Witness Name: ANA L. MALDONADO

NDN Enterprises, Ltd., a New York limited partnership

By:
Jery Nemzer a/k/a Zelek Nemzer,
Chief Executive Officer

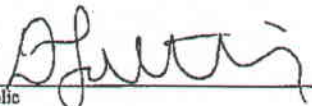
(Corporate Seal)

DoubleTime

State of Florida
County of Miami-Dade

The foregoing instrument was acknowledged before me this 9th day of June, 2006 by Jerry Nemzer a/k/a Zelek Nemzer, as Chief Executive Officer of NDN Enterprises, Ltd., a New York limited partnership, on behalf of the corporation. He/she ☐ is personally known to me or ☒ has produced a driver's license as identification.

[Notary Seal]


Notary Public

Printed Name: _____

My Commission Expires: _____

